

Introduced by Senator Ashburn

February 26, 2009

An act to amend Sections 21572, 21573, and 21574.7 of the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 519, as introduced, Ashburn. Public Employees' Retirement System: death benefits.

The Public Employees' Retirement System provides preretirement death benefits for the surviving spouse or children, or both, as specified, of state members and specified school members not covered by the federal Social Security Act and provides that a surviving spouse becomes eligible for certain of these benefits when he or she attains 60 years of age and meets other specified criteria. Existing law provides that on January 1, 2010, the surviving spouse's eligibility age will increase to 62 years of age, and the financial monthly benefits to the survivors would decrease.

This bill would delete the provisions that would change the law on January 1, 2010, and would instead maintain indefinitely the benefits that are currently in effect.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21572 of the Government Code is
- 2 amended to read:
- 3 21572. (a) In lieu of benefits provided in Section 21571, if the
- 4 death benefit provided by Section 21532 is payable on account of

1 a state member's death that occurs under circumstances other than
2 those described in subparagraph (F) of paragraph (1) of subdivision
3 (a) of Section 21530, or if an allowance under Section 21546 is
4 payable, the payment pursuant to subdivision (b) shall be made in
5 the following order of priority:

6 (1) The surviving wife or surviving husband of the member,
7 who has the care of unmarried children, including stepchildren, of
8 the member who are under 22 years of age, or are incapacitated
9 because of a disability that began before and has continued without
10 interruption after attainment of that age.

11 (2) The guardian of surviving unmarried children, including
12 stepchildren, of the member who are under 22 years of age or are
13 so incapacitated.

14 (3) The surviving wife or surviving husband of the member,
15 who does not qualify under paragraph (1).

16 (4) Each surviving parent of the member.

17 (b) Regardless of the benefit provided by Section 21532 and of
18 the beneficiary designated by the member under that section, or
19 regardless of the allowance provided under Section 21546, the
20 following applicable 1959 survivor allowance, under the conditions
21 stated and from contributions of the state, shall be paid:

22 (1) A surviving spouse who was either continuously married to
23 the member for at least one year prior to death, or was married to
24 the member prior to the occurrence of the injury or onset of the
25 illness that resulted in death, and has the care of unmarried
26 children, including stepchildren, of the deceased member who are
27 under 22 years of age or are so incapacitated, shall be paid four
28 hundred fifty dollars (\$450) per month if there is one child or five
29 hundred thirty-eight dollars (\$538) per month if there are two or
30 more children. If there also are children who are not in the care of
31 the surviving spouse, the portion of the allowance payable under
32 this paragraph, assuming that these children were in the care of
33 the surviving spouse, that is in excess of two hundred twenty-five
34 dollars (\$225) per month, shall be divided equally among all those
35 children and payments made to the spouse and other children, as
36 the case may be.

37 (2) If there is no surviving spouse, or if the surviving spouse
38 dies, and if there are unmarried children, including stepchildren,
39 of the deceased member who are under 22 years of age or are so

1 incapacitated, or if there are children not in the care of the spouse,
2 the children shall be paid an allowance as follows:

3 (A) If there is only one child, the child shall be paid two hundred
4 twenty-five dollars (\$225) per month.

5 (B) If there are two children, the children shall be paid four
6 hundred fifty dollars (\$450) per month divided equally between
7 them.

8 (C) If there are three or more children, the children shall be paid
9 five hundred thirty-eight dollars (\$538) per month divided equally
10 among them.

11 (3) A surviving spouse who has attained or attains the age of
12 62 years and, with respect to that surviving spouse, who was either
13 continuously married to the member for at least one year prior to
14 death, or was married to the member prior to the occurrence of the
15 injury or onset of the illness that resulted in death, shall be paid
16 two hundred twenty-five dollars (\$225) per month. No allowance
17 shall be paid under this paragraph while the surviving spouse is
18 receiving an allowance under paragraph (1) or while an allowance
19 is being paid under subparagraph (C) of paragraph (2). The
20 allowance paid under this paragraph shall be eighty-eight dollars
21 (\$88) per month while an allowance is being paid under
22 subparagraph (B) of paragraph (2).

23 (4) If there is no surviving spouse or surviving child who
24 qualifies for a 1959 survivor allowance, or if the surviving spouse
25 dies and there is no surviving child, or if the surviving spouse dies
26 and the children die or marry or, if not incapacitated, reach 22
27 years of age, each of the member's dependent parents who has
28 attained or attains the age of 62 years, and who received at least
29 one-half of his or her support from the member at the time of the
30 member's death, shall be paid two hundred twenty-five dollars
31 (\$225) per month.

32 (c) "Stepchildren," for purposes of this section, shall include
33 only stepchildren of the member living with him or her in a regular
34 parent-child relationship at the time of his or her death.

35 (d) This section shall apply to beneficiaries receiving 1959
36 survivor allowances on July 1, 1975, as well as to beneficiaries
37 with respect to the death of a state member occurring on or after
38 July 1, 1975.

39 (e) This section shall apply, with respect to benefits payable on
40 and after July 1, 1981, to all members employed by a school

1 employer, and school safety members employed with a school
2 district or community college district as defined in subdivision (i)
3 of Section 20057, except that it shall not apply, without contract
4 amendment, with respect to safety members who became members
5 after July 1, 1981. All assets and liabilities of all school employers,
6 and their employees, on account of benefits provided under this
7 article shall be pooled into a single account, and a single employer
8 rate shall be established to provide benefits under this section on
9 account of all miscellaneous members employed by a school
10 employer and all safety members who are members on July 1,
11 1981.

12 (f) This section does not apply to any member in the employ of
13 an employer not subject to this section on January 1, 1994.

14 (g) On and after January 1, 2000, ~~and until January 1, 2010,~~ all
15 state members covered by this section shall be covered by the
16 benefit provided under Section 21574.7. ~~On and after January 1,~~
17 ~~2010, all state members not covered by Section 21573 or 21574.7~~
18 ~~shall be covered by this section.~~

19 (h) On and after the date determined by the board, all assets and
20 liabilities of all contracting agencies subject to this section, and
21 their employees, on account of benefits provided under this article
22 shall be pooled into a single account, and a single employer rate
23 shall be established to provide benefits under this section on
24 account of members employed by a contracting agency that is
25 subject to this section.

26 (i) The rate of contribution of an employer subject to this section
27 shall be figured using the term insurance valuation method. If a
28 contracting agency that is subject to this section is projected to
29 have a surplus in its 1959 survivor benefit account as of the date
30 the assets and liabilities are first pooled, the surplus shall be applied
31 to reduce its rate of contribution. If a contracting agency that is
32 subject to this section is projected to have a deficit in its 1959
33 survivor benefit account as of the date the assets and liabilities are
34 first pooled, its rate of contribution shall be increased until the
35 projected deficit is paid.

36 SEC. 2. Section 21573 of the Government Code is amended
37 to read:

38 21573. (a) In lieu of benefits provided in Section 21571 or
39 Section 21572, if the death benefit provided by Section 21532 is
40 payable on account of a state member's death that occurs under

1 circumstances other than those described in subparagraph (F) of
2 paragraph (1) of subdivision (a) of Section 21530, or if an
3 allowance under Section 21546 is payable, the payment pursuant
4 to subdivision (b) shall be made in the following order of priority:

5 (1) The surviving wife or surviving husband of the member,
6 who has the care of unmarried children, including stepchildren, of
7 the member who are under 22 years of age, or are incapacitated
8 because of a disability that began before and has continued without
9 interruption after attainment of that age.

10 (2) The guardian of surviving unmarried children, including
11 stepchildren, of the member who are under 22 years of age or are
12 so incapacitated.

13 (3) The surviving wife or surviving husband of the member,
14 who does not qualify under paragraph (1).

15 (4) Each surviving parent of the member.

16 (b) Regardless of the benefit provided by Section 21532 and of
17 the beneficiary designated by the member under that section, or
18 regardless of the allowance provided under Section 21546, the
19 following applicable 1959 survivor allowance, under the conditions
20 stated and from contributions of the state, shall be paid:

21 (1) A surviving spouse who was either continuously married to
22 the member for at least one year prior to death, or who was married
23 to the member prior to the occurrence of the injury or onset of the
24 illness that resulted in death, and has the care of unmarried
25 children, including stepchildren, of the deceased member who are
26 under 22 years of age or are so incapacitated, shall be paid seven
27 hundred dollars (\$700) per month if there is one child, or eight
28 hundred forty dollars (\$840) per month if there are two or more
29 children. If there also are children who are not in the care of the
30 surviving spouse, the portion of the allowance payable under this
31 paragraph, assuming that these children were in the care of the
32 surviving spouse, that is in excess of three hundred fifty dollars
33 (\$350) per month, shall be divided equally among all those children
34 and payments made to the spouse and other children, as the case
35 may be.

36 (2) If there is no surviving spouse, or if the surviving spouse
37 dies, and if there are unmarried children, including stepchildren,
38 of the deceased member who are under 22 years of age or are so
39 incapacitated, or if there are children not in the care of the spouse,
40 the children shall be paid an allowance as follows:

1 (A) If there is only one child, the child shall be paid three
2 hundred fifty dollars (\$350) per month.

3 (B) If there are two children, the children shall be paid seven
4 hundred dollars (\$700) per month divided equally between them.

5 (C) If there are three or more children, the children shall be paid
6 eight hundred forty dollars (\$840) per month divided equally
7 among them.

8 (3) A surviving spouse who has attained or attains the age of
9 62 years, and, with respect to that surviving spouse, who was either
10 continuously married to the member for at least one year prior to
11 death, or who was married to the member prior to the occurrence
12 of the injury or onset of the illness that resulted in death, shall be
13 paid three hundred fifty dollars (\$350) per month. No allowance
14 shall be paid under this paragraph while the surviving spouse is
15 receiving an allowance under paragraph (1) or while an allowance
16 is being paid under subparagraph (C) of paragraph (2). The
17 allowance paid under this paragraph shall be one hundred forty
18 dollars (\$140) per month while an allowance is being paid under
19 subparagraph (B) of paragraph (2).

20 (4) If there is no surviving spouse or surviving child who
21 qualifies for the 1959 survivor allowance, or if the surviving spouse
22 dies and there is no surviving child, or if the surviving spouse dies
23 and the children die or marry or, if not incapacitated, reach 22
24 years of age, each of the member's dependent parents who has
25 attained or attains the age of 62 years, and who received at least
26 one-half of his or her support from the member at the time of the
27 member's death, shall be paid three hundred fifty dollars (\$350)
28 per month.

29 (c) "Stepchildren," for purposes of this section, shall include
30 only stepchildren of the member living with the member in a
31 regular parent-child relationship at the time of the death of the
32 member.

33 (d) This section shall apply to beneficiaries of state members
34 whose death occurred before January 1, 1985. Where a surviving
35 spouse attained the age of 62 years prior to January 1, 1987,
36 entitlement shall exist retroactive to January 1, 1985, or to his or
37 her 62nd birthday, whichever is later. All assets and liabilities of
38 all state agencies and their employees on account of benefits
39 provided to beneficiaries specified in this subdivision shall be
40 pooled into a single account. The board shall transfer from the

1 reserve for 1959 survivor contributions retained in the retirement
2 fund an amount sufficient to pay the cost of the increased benefits
3 provided by this subdivision for beneficiaries of members who
4 died on or before December 31, 1984.

5 (e) This section shall not apply to beneficiaries with respect to
6 the death of a state member, except as provided in subdivision (i),
7 occurring on or after January 1, 1985, unless provided for in a
8 memorandum of understanding reached pursuant to Section 3517.5,
9 or authorized by the Director of Personnel Administration for
10 classifications of state employees that are excluded from, or not
11 subject to, collective bargaining. The memorandum of
12 understanding adopting this section shall be controlling without
13 further legislative action, except that if those provisions of a
14 memorandum of understanding require the expenditure of funds,
15 those provisions shall not become effective unless approved by
16 the Legislature as provided by law.

17 (f) This section shall apply, with respect to benefits payable on
18 and after January 1, 1985, to school members and to school safety
19 members, as defined in Section 20444. All assets and liabilities of
20 all school employers, and their employees, on account of benefits
21 provided under this article shall be pooled into a single account,
22 and a single employer rate shall be established to provide benefits
23 under this section on account of school members employed by a
24 school employer.

25 (g) This section shall apply to members of a contracting agency
26 that, in its original contract or by amending its contract, first elects
27 effective on or after January 1, 1985, and prior to July 1, 2001, to
28 make this article applicable to local members employed by the
29 agency. On or after January 1, 1985, and prior to July 1, 2001,
30 contracting agencies already subject to Section 21571 or Section
31 21572 may elect by contract amendment to be subject to this
32 section. All assets and liabilities of all contracting agencies subject
33 to this section, and their employees, on account of benefits provided
34 under this article shall be pooled into a single account, and a single
35 employer rate shall be established to provide benefits under this
36 section on account of members employed by a contracting agency
37 that is subject to this section. Any public agency first contracting
38 with the board on or after January 1, 1994, and prior to July 1,
39 2001, or any contracting agency amending its contract to remove
40 exclusions of member classifications on or after January 1, 1994,

1 and prior to July 1, 2001, that has not, pursuant to Section 418 of
2 Title 42 of the United States Code, entered into an agreement with
3 the federal government for the coverage of its employees under
4 the federal system, shall be subject to this section.

5 (h) The rate of contribution of an employer subject to this section
6 shall be figured using the term insurance valuation method. If a
7 contracting agency that is subject to this section has a surplus in
8 its 1959 survivor benefit account as of the date the contracting
9 agency becomes subject to this section, the surplus shall be applied
10 to reduce its rate of contribution. If a contracting agency that is
11 subject to this section has a deficit in its 1959 survivor benefit
12 account as of the date the contracting agency becomes subject to
13 this section, its rate of contribution shall be increased until the
14 deficit is paid.

15 (i) This section shall not apply to beneficiaries with respect to
16 the death of a state member employed by the California State
17 University occurring on or after January 1, 1988, unless provided
18 for in a memorandum of understanding reached pursuant to Chapter
19 12 (commencing with Section 3560) of Division 4 of Title 1, or
20 authorized by the Trustees of the California State University for
21 employees excluded from collective bargaining. The memorandum
22 of understanding shall be controlling without further legislative
23 action, except that if the provisions of a memorandum of
24 understanding require the expenditure of funds, the provisions
25 shall not become effective unless approved by the Legislature in
26 the annual Budget Act.

27 (j) This section shall apply to local members employed by a
28 contracting agency that has included this benefit in its contract
29 with the board on or before June 30, 2001.

30 (k) This section shall not apply to any contracting agency that
31 first contracts with the board on or after July 1, 2001.

32 (l) On and after January 1, 2000, ~~and until January 1, 2010,~~ all
33 eligible state and school members covered by this section shall be
34 covered by the benefit provided under Section 21574.7. ~~On and~~
35 ~~after January 1, 2010, all eligible state and school members not~~
36 ~~covered by Section 21572 or 21574.7 shall be covered by this~~
37 ~~section.~~

38 SEC. 3. Section 21574.7 of the Government Code is amended
39 to read:

1 21574.7. (a) In lieu of benefits provided in Section 21571,
2 21572, or 21573, if the death benefit provided by Section 21532
3 is payable on account of a state member's death that occurs under
4 circumstances other than those described in subparagraph (F) of
5 paragraph (1) of subdivision (a) of Section 21530, or if an
6 allowance under Section 21546 is payable, the payment pursuant
7 to subdivision (b) shall be made in the following order of priority:

8 (1) The surviving spouse of the member, who has the care of
9 unmarried children, including stepchildren, of the member who
10 are under 22 years of age, or are incapacitated because of a
11 disability that began before and has continued without interruption
12 after the attainment of that age.

13 (2) The guardian of surviving unmarried children, including
14 stepchildren, of the member who are 22 years of age or are so
15 incapacitated.

16 (3) The surviving spouse of the member, who does not qualify
17 under paragraph (1).

18 (4) Each surviving parent of the member.

19 (b) Regardless of the benefit provided by Section 21532 and of
20 the beneficiary designated by the member under that section, or
21 regardless of the allowance provided under Section 21546, the
22 following applicable 1959 survivor allowance, under the conditions
23 stated and from contributions of the employer, shall be paid:

24 (1) A surviving spouse who was either continuously married to
25 the member for at least one year prior to death, or was married to
26 the member prior to the occurrence of the injury or onset of the
27 illness that resulted in death, and has the care of unmarried
28 children, including stepchildren, of the deceased member who are
29 under 22 years of age or are so incapacitated, shall be paid one
30 thousand five hundred dollars (\$1,500) per month if there is one
31 child or one thousand eight hundred dollars (\$1,800) per month if
32 there are two or more children. If there also are children who are
33 not in the care of the surviving spouse, the portion of the allowance
34 payable under this paragraph, assuming that these children were
35 in the care of the surviving spouse, that is in excess of seven
36 hundred fifty dollars (\$750) per month, shall be divided equally
37 among all those children and payments made to the spouse and
38 other children, as the case may be.

39 (2) If there is no surviving spouse, or if the surviving spouse
40 dies, and if there are unmarried children, including stepchildren,

1 of the deceased member who are under 22 years of age or are so
2 incapacitated, or if there are children not in the care of the spouse,
3 the children shall be paid an allowance as follows:

4 (A) If there is only one child, the child shall be paid seven
5 hundred fifty dollars (\$750) per month.

6 (B) If there are two children, the children shall be paid one
7 thousand five hundred dollars (\$1,500) per month divided equally
8 between them.

9 (C) If there are three or more children, the children shall be paid
10 one thousand eight hundred dollars (\$1,800) per month divided
11 equally among them.

12 (3) A surviving spouse who has attained or attains the age of
13 60 years, and who was either continuously married to the member
14 for at least one year prior to death, or was married to the member
15 prior to the occurrence of the injury or onset of the illness that
16 resulted in death, shall be paid seven hundred fifty dollars (\$750)
17 per month. No allowance shall be paid under this paragraph while
18 the surviving spouse is receiving an allowance under paragraph
19 (1) or while an allowance is being paid under subparagraph (C) of
20 paragraph (2). The allowance paid under this paragraph shall be
21 three hundred dollars (\$300) per month while an allowance is being
22 paid under subparagraph (B) of paragraph (2).

23 (4) If there is no surviving spouse or surviving child who
24 qualifies for the 1959 survivor allowance, or if the surviving spouse
25 dies and there is no surviving child, or if the surviving spouse dies
26 and the children die or marry or, if not incapacitated, reach 22
27 years of age, each of the member's dependent parents who has
28 attained or attains the age of 60 years, and who received at least
29 one-half of his or her support from the member at the time of the
30 member's death, shall be paid seven hundred fifty dollars (\$750)
31 per month.

32 (c) "Stepchildren," for purposes of this section, shall include
33 only stepchildren of the member living with the member in a
34 regular parent-child relationship at the time of the death of the
35 member.

36 (d) This section shall only apply to state and school members
37 effective on or after January 1, 2000.

38 (e) All assets and liabilities of state employers subject to this
39 section, and their employees, on account of benefits provided under
40 this article shall be pooled into a single account, and a single

1 employer rate shall be established to provide benefits under this
2 section on account of state members employed by the state.

3 (f) All assets and liabilities of school employers, as defined in
4 Section 20063, that are subject to this section, and their employees,
5 on account of benefits provided under this article shall be pooled
6 into a single account, and a single employer rate shall be
7 established to provide benefits under this section.

8 (g) The rate of contribution of an employer subject to this section
9 shall be calculated using a method determined by the board.
10 Surplus assets shall be applied to reduce the rate of contribution.
11 If a deficit exists, the rate of contribution shall be increased until
12 the deficit is paid.

13 (h) On and after January 1, 2000, ~~and until January 1, 2010,~~ all
14 state employees and school members shall be covered by this
15 section.

16 (i) ~~This section shall be repealed on January 1, 2010, unless a~~
17 ~~later enacted statute, that becomes effective on or before January~~
18 ~~1, 2010, deletes or extends that date.~~